AGENCY — AGENTS' LIABILITY TO THIRD PERSONS — LIABILITY ON CONTRACT FOR PARTLY UNDISCLOSED PRINCIPAL. — The defendant, a hotel porter, called the plaintiff, a cabman, for a customer who later changed his mind and refused to take the cab. *Held*, that the plaintiff may recover. *Isaacs* v. *Allen*, 48 L. J. 501.

The facts show that an action on the contract by the third party against the agent of a partly undisclosed principal is anomalous and not based on any real agreement between the parties. It is, however, well established law. *Argersinger* v. *Macnaughton*, 21 N. E. 1022, 114 N. Y. 535; *Horan* v. *Hughes*, 129 Fed. 248, 1005. It can be said in favor of this action that it works practical justice by offering the third party some other security than the credit of an unknown principal. The present defendant might well have been relieved, however, on the ground that he acted as an automaton, or messenger, rather than as an agent; and that no reliance was placed on his responsibility for the performance of the contract.

BANKRUPTCY — PROPERTY PASSING TO TRUSTEE — LIFE INSURANCE POLICIES. — A bankrupt had a life insurance policy payable to his executors, administrators, or assigns, which, however, had been pledged to the amount of its cash surrender value. Section 75 a (5) of the Bankruptcy Act provides that by paying his trustee the cash surrender value of his policy he may retain it. *Held*, that the policy does not pass to the trustee. *Burlingham* v. *Crouse*, 33 Sup. Ct. 564.

The court proceeds upon the theory that as the bankrupt is to keep his interest over and above the cash surrender value, there is no occasion here for paying anything, because he has not any interest up to that amount. A decision to the same effect when the principal case was in the lower court was approved in 24 HARV. L. REV. 317.

CARRIERS — DISCRIMINATION AND OVERCHARGE — RIGHT TO COLLECT BALANCE OF LEGAL RATE FROM CONSIGNEE WHEN LOWER RATE WAS ORIGINALLY CHARGED. — The plaintiff collected from the defendant by mistake an amount lower than the rate published in accordance with the Interstate Commerce Act. The consignee was the commission agent of the consignor and had already accounted to his principal, — this relationship being unknown to the plaintiff when the goods were delivered. The plaintiff now sues the consignee for the balance of the legal rate. *Held*, that the plaintiff cannot recover. *Pennsylvania R. C.* v. *Titus*, 142 N. Y. Supp. 43 (App. Div.).

In Massachusetts a case arose having exactly the same facts as those in the New York case above. *Held*, that the plaintiff can recover. *New York, N. H. & H. R. Co.* v. *York & Whitney Co.*, 102 N. E. 366 (Mass.).

When a carrier by mistake, or even intentionally, quotes a lower rate than that published in accordance with the provisions of section 6 of the Interstate Commerce Act (*Act Feb. 4, 1887, C. 104*, 24 Stat. 380; *Amend. Act, June 29, 1906, C. 3591*, 34 Stat. 586), the carrier can demand the lawful rate before surrendering the goods. *Gulf, etc. Ry.* v. *Hefley*, 158 U. S. 98; *Southern Ry.* v. *Harrison*, 119 Ala. 539, 24 So. 552. It can sue for the unpaid balance after the goods have been delivered. *Union Pacific R. Co.* v. *American Smelting & Refining Co.*, 202 Fed. 720. And the carrier is not liable to the shipper for negligence in quoting the lower rate. *Texas & Pacific Ry. Co.* v. *Mugg*, 202 U. S. 242; *Illinois Central R. Co.* v. *Henderson Elevator Co.*, 226 U. S. 441. Upon a true analysis the rights and liabilities of employer and carrier arise by way of relation and not by way of contract. See 1 WYMAN, PUBLIC SERVICE CORPORATIONS, § 331 *et seq.* Therefore whoever enters into a relation with a carrier must pay the legal freight rate, since this payment is one of the duties incident to the relation. Any contract for a lower rate does not alter this duty,